

FILED

MAY 22 2000

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SANDISK CORPORATION,

No. C 98-¹¹¹⁵0115 CRB

Plaintiff,

ORDER

v.

LEXAR MEDIA, INC.,

Defendant.

Now before the Court is defendant's expedited motion for leave to file a motion for reconsideration of the Court's March 28, 2000 Order granting plaintiff's motion for partial summary judgment. After carefully considering defendant's motion and plaintiff's opposition, defendant's expedited motion is DENIED.

First, defendant's assertion that a motion for reconsideration is proper because of a "manifest failure by the court to consider material facts which were presented," see Civil Local Rule 7-9(b)(3), is mistaken. The Court specifically considered the fact that defendant's device lacks a pre-existing correspondence. The Court concluded that this undisputed fact did not defeat summary judgment since claim 10 does not require a pre-existing correspondence.

Second, interpreting "corresponds" so as not to require a "pre-existing" or "permanent" correspondence does not render the term meaningless. The phrase

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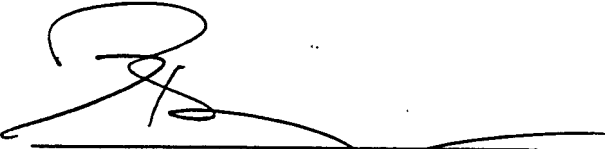
1 "corresponds with said at least one magnetic disk sector" clarifies the phrase "an address of
2 at least one non-volatile memory sector." There is nothing in the use of the word
3 "corresponds" or the language of this element of claim 10 that requires the Court to impose a
4 limitation of a "pre-existing" correspondence.

5 Finally, and in order to make the record clear, the Court did not make any "factual
6 findings" in ruling on plaintiff's motion for summary judgment. The Court made
7 conclusions as to which facts were undisputed by the parties and whether, based on those
8 undisputed facts, plaintiff had met its burden and was entitled to summary judgment.

9 Accordingly, defendant's expedited motion for leave to file a motion for
10 reconsideration is DENIED.

11 IT IS SO ORDERED.

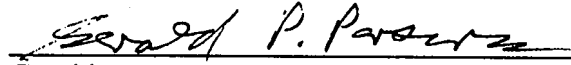
12 Dated: May 22, 2000


CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

Consideration of each of the newly cited documents and the making of them of record in the file of the present application are respectfully requested.

Dated: January 21, 2000

Respectfully submitted,



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